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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BROOKLYN OFFICE

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JCJ MARKETER CORP., *d/b/a JCJ Courier &
Marketer,*

ORDER

Plaintiff,

09-CV-1487 (NGG) (JMA)

-against-

TIERRA NUEVA ORGANIC, INC. and
GABRIELA ARANGO, *individually and in any
corporate capacity,*

Defendants.

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NICHOLAS G. GARAUFIS, United States District Judge.

On March 31, 2010, the court referred this case to Magistrate Judge Joan M. Azrack for a report and recommendation as to whether Defendants had been properly served under Federal Rule of Civil Procedure 4. (Mem. & Order (Docket Entry # 6).) On May 18, 2011, Judge Azrack issued a Report and Recommendation ("R&R") by electronic order that stated in its entirety:

On April 10, 2009, plaintiff JCJ Marketer Corp. commenced this case against defendants Gabriela Arango and Tierra Nueva Organic. That same day, the case was referred to arbitration. On August 17, 2009, plaintiff moved for default judgment against defendants. The Clerks Office contacted plaintiff's counsel four times to inquire as to whether service was properly effected on Tierra. On March 3, 2010, the Clerk of the Court issued an entry of default as to Arango. On March 31, 2010, the Honorable Nicholas G. Garaufis denied plaintiff's motion for default against Tierra, reasoning that plaintiff failed to submit adequate proof of service. Between March 31, 2010 and December 14, 2010, no activity occurred on the docket. Subsequently, on December 14, 2010, I issued a Status Report Order, directing the parties to apprise the Court of the status of this matter by January 18, 2011 and notifying the parties that failure to comply with the Order may result in a recommendation to the District Judge. Neither party submitted a status report. On May 5, 2011, per a telephone call to Chambers, plaintiff's counsel notified the Court that the case was no longer moving forward. Accordingly, I issued an Order to Show Cause why this case should not be dismissed without prejudice and allotted twelve days for the parties' response. No objections were filed. For the aforementioned reasons, I recommend that this

case be dismissed without prejudice for failure to prosecute. Ordered by Magistrate Judge Joan M. Azrack on 5/18/2011.

(Docket Entry May 18, 2011.)

No party has objected to Judge Azrack's R&R, and the time to do so has passed. See Fed. R. Civ. P. 72(b)(2). Having reviewed Judge Azrack's R&R, the court adopts it in its entirety. See Porter v. Potter, 219 F. App'x 112 (2d Cir. 2007). Accordingly, the court dismisses the case for failure to prosecute, without prejudice, under Federal Rule of Civil Procedure 41(b). The court directs the Clerk of Court to close this case.

SO ORDERED.

Dated: Brooklyn, New York
~~Sept.~~ August 1, 2011

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS
United States District Judge